



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes

Tenant: AAT CNC LRE OLC PSF

Landlord: OPC MND MNDC MNSD FF

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties. The participatory hearing was held, via teleconference, on March 13, 2018.

The Landlord and the Tenant both attended the hearing. All parties provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

During the hearing, both parties agreed that the Tenant has now moved out of the rental unit. The Tenant withdrew all of the grounds on her application, as they are now moot. The Landlord also stated she does not need an order of possession, so the Landlord's application on this ground is dismissed, without leave to reapply.

The Tenant stated that she has not given the Landlord her forwarding address in writing yet but she still intends to get her security deposit back at some point. The Tenant stated that she is planning on making an application in the future to get her security deposit back. As this was not an issue she had applied for in this application, I explained that she is at liberty to apply for this in the future since I have not made any findings with respect to the deposit.

After getting the Tenant's application for dispute resolution, and while the Tenant was still residing in the rental unit, the Landlord cross applied for a different set of issues, and got a separate Notice of Hearing, listing the issues she was applying for. The Landlord stated that she served her Notice of Hearing and application package to the Tenant on February 13, 2018, in person. The Tenant denies ever getting the Landlord's Notice of Hearing. The Tenant stated that she was not made aware of the full list of issues the Landlord was applying for. The Tenant stated that the only Notice of Hearing she saw was the one she got when she made her application. After considering this matter, I note the Landlord provided no further proof of service of her Notice of Hearing. I find there is insufficient evidence before me to demonstrate that the Tenant has been served with the Notice of Hearing. I also find this is prejudicial to the Tenant given that she was not made aware of the grounds the Landlord was applying under. After considering this matter, I dismiss the Landlord's application for monetary compensation and to retain the Tenant's security deposit to offset the damage left behind, with leave to reapply. I encouraged both parties to serve documents in accordance with the Act, and that documentary evidence proving service may help in future proceedings.

### Conclusion

The Tenant's application is withdrawn, in full.

The Landlord is granted leave to reapply for monetary compensation for damage or loss and to retain the security deposit to offset any monetary claim.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 15, 2018

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Residential Tenancy Branch